

BEFORE

THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 90-746-E - ORDER NO. 91-673 ✓

AUGUST 13, 1991

IN RE:	Application of Carolina Power)	
	and Light Company for a Certificate)	ORDER DENYING
	of Environmental Compatibility and)	PETITION FOR
	Public Convenience and Necessity for)	REHEARING AND
	Three Additional Combustion Turbine)	RECONSIDERATION
	Generating Units at the Company's)	
	Darlington County Electric Plant.)	

This matter is before the Public Service Commission of South Carolina (the Commission) on the Consumer Advocate for the State of South Carolina's (the Consumer Advocate's) Petition for Rehearing and Reconsideration of Order No. 91-566 (July 16, 1991) issued in this docket. Order No. 91-566 granted Carolina Power & Light Company (the Company or CP&L) a Certificate of Environmental Compatibility and Public Convenience and Necessity to construct three additional combustion turbine generating units and associated transmission facilities (Combustion Turbine Addition) at the Company's Darlington County Electric Plant near Hartsville, South Carolina. After full consideration of the Consumer Advocate's arguments, the Commission denies the Petition for Rehearing and Reconsideration for the reasons explained below.

1. The Consumer Advocate contends that the Commission acted without substantial evidence in approving the Combustion Turbine Addition. Specifically, the Consumer Advocate asserts that the Commission and the Company were statutorily required to consider the environmental impacts of alternative resource options before a Certificate of Environmental Compatibility and Public Convenience and Necessity could be granted. Additionally, the Consumer Advocate asserts that the Company and the Commission failed to consider the nature and economics of various alternatives to the Combustion Turbine Addition. The Commission disagrees.

South Carolina Code Ann. §58-33-160(1)(1976) states that the Commission may not grant a Certificate of Public Convenience and Necessity unless it finds and determines the following:

- (a) The basis of the need for the facility.¹
- (b) The nature of the probable environmental impact.²
- (c) That the impact of the facility upon the environment is justified, considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations.
- (d) That the facilities will serve the interests of system economy and reliability.³
- (e) That there is reasonable assurance that the

1. The Consumer Advocate does not contest the Company's need for the facility.

2. The Consumer Advocate does not challenge the Commission's conclusion that the environmental impact of the Combustion Turbine Addition is minimal.

3. The Consumer Advocate does not contest the Combustion Turbine Addition will serve the interest of the Company's system economy and reliability.

proposed facility will conform to applicable State and local laws and regulations issued thereunder, including any allowable variance provisions therein, except that the Commission may refuse to apply any local law or local regulation if it finds that, as applied to the proposed facility, such law or regulation is unreasonably restrictive in view of the existing technology, or of factors of cost or economics or of the needs of consumers whether located inside or outside of the directly affected government subdivisions.

- (f) That public convenience and necessity require the construction of the facility.

The Consumer Advocate's argument to the contrary, §58-33-160(1)(c) does not expressly require the Commission to consider and compare the environmental impact of various resource alternatives. Instead, the statute specifies that the Commission must find and determine that the impact of the proposed facility on the environment is justified "considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations."

In Order No. 91-566, the Commission fully recounted the evidence of record concerning the environmental impact of the proposed Combustion Turbine Addition. As noted by the Commission, there are no wetlands or aquatic habitats that would be affected by the project; there is minimal visual impact and no measurable increase in noise levels at the nearest residence to the site; there are no known historical or archaeological sites in the area; the impact of fuel delivery, loading and storage would be minimal since these events will take place at existing facilities and under existing, proven safety plans; the construction of the additional

transmission line would not result in any appreciable alteration of the contour of the land; sulfur dioxide emissions would be minimized by burning low-sulfur oil or natural gas and in any event would be within the guidelines specified by the South Carolina Department of Health and Environmental Control; and there would be minimal impact on existing air quality as concentrations of contaminants would be below ambient air quality standard levels and lower than the Prevention of Significant Deterioration increments. The Commission stated in its Order that it received no objections to the proposed Combustion Turbine Addition from any of the twenty-six governmental agencies and other interested parties who were served with a copy of the Company's Application. The Commission concluded that the environmental impact of the Combustion Turbine Addition was "minimal."

The Commission further determined, and the record supports, that the minimal impact of the Combustion Turbine Addition was justified based on the state of available technology, the nature and economics of various alternatives, and other pertinent considerations. The Company's Application indicated that in the process of developing its Least Cost Integrated Resource Plan (LCIRP), CP&L considered sixteen alternative conventional generation technologies and nineteen alternative technologies, including geothermal, solar, thermal, wind, coal, nuclear, municipal waste, and proposals from non-utility generators and independent power producers. The record indicates that the Company screened these technologies and eliminated those that were not

available by the year 2000 or were not economically competitive with other technologies in 1995.⁴ Company witness Montague testified that the Company determined the Combustion Turbine Addition was the least cost option for 1994. The record further indicates, and the Commission found, that because of uncertainties in oil prices and load growth, the Combustion Turbine Addition would be a beneficial resource option. Additionally, the Commission found that the Combustion Turbine Addition's dual capability of using No. 2 fuel oil and natural gas provided the Company with economic flexibility. The Commission stated that the uncontradicted record indicated that combustion turbines have the lowest capital cost for peaking duty, shorter lead times, high reliability and, up to a 10% capacity factor, are the most economical of the peaking alternatives.

In conclusion, the Commission concludes that §58-33-160(1)(c) does not require it to consider the environmental impact of alternatives to the Combustion Turbine Addition. Further, the Commission finds it properly considered the impact of the proposed facility on the environment and whether that impact was justified considering the state of available technology and the nature and economics of alternatives, and other considerations. Therefore, the Commission denies the Petition on this issue.

4. CP&L plans to install the Combustion Turbine Addition by 1994.

2. The Consumer Advocate contends it was inappropriate for the Commission to condition the granting of the Certificate of Environmental Compatibility and Public Convenience and Necessity on "any conditions imposed by applicable state agencies." The Consumer Advocate argues that any conditions could change the economics and environmental impact of the Combustion Turbine Addition and renders the Order either void for vagueness or premature. As argued at the hearing, the Consumer Advocate states that amendments to the Clean Air Act may make combustion turbines less attractive.

South Carolina Code Ann. §58-33-160(1)(1976) allows the Commission to grant a certificate "upon such terms, conditions or modifications...as the Commission may deem appropriate; such conditions shall be as determined by the applicable State agency having jurisdiction or authority under statutes, rules, regulations or standards promulgated thereunder, and the conditions shall become a part of the certificate." The Commission must also find and determine "[t]hat there is reasonable assurance that the proposed facility will conform to applicable State and local laws and regulations." S.C. Code Ann. §58-33-160(1)(e)(1976).

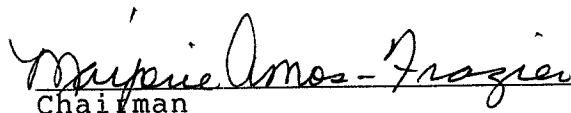
Pursuant to its discretion under §58-33-160(1), the Commission determined it was appropriate to grant CP&L a certificate subject to conditions imposed by applicable state agencies. This requirement assured the Commission that CP&L would obtain all permits listed in its Application as necessary for construction and operation of the Combustion Turbine Addition and assured the

Commission that the Combustion Turbine Addition would conform to applicable State regulations. The Commission finds that its issuance of the Certificate of Environmental Compatibility and Public Convenience and Necessity subject to state agency approval was proper.

Moreover, the Commission finds it would be inappropriate to deny or delay a certificate based upon future amendments to the Clean Air Act or other unknown events. The denial or delay in the granting of a certificate under §58-33-160 based upon speculative events would unduly restrict the ability of the Commission to carry out its duty under the Utility Facility Siting and Environmental Protection Act.

For these reasons the Commission denies the Petition for Rehearing on this issue.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)